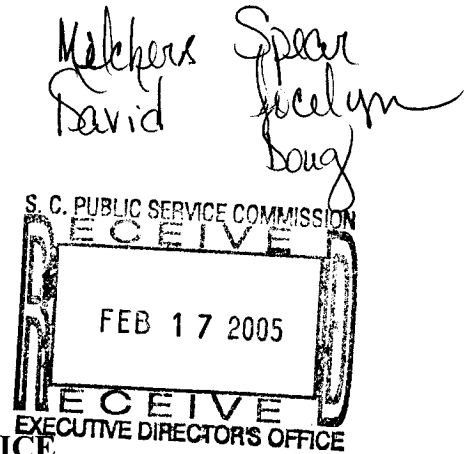


# ELLIS:LAWHORNE

John J. Pringle, Jr.  
Direct dial: 803/343-1270  
[jpringle@ellislawhorne.com](mailto:jpringle@ellislawhorne.com)

February 15, 2005



**VIA ELECTRONIC MAIL AND FIRST-CLASS MAIL SERVICE**

The Honorable Charles L.A Terreni  
Executive Director  
**South Carolina Public Service Commission**  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Petition and Complaint of AT&T Communications of the  
Southern States, LLC for Suspension and Cancellation of Transit  
Traffic Service Tariff No. 205-138 filed by BellSouth  
Telecommunications, Inc.  
**Tariff No. 2005-138, Our File No. 611-10116**  
*2005-50- 2005-63C*

Dear Mr. Terreni:

Enclosed is the original and ten (10) copies of the **Petition and Complaint** filed by AT&T Communications of the Southern States, LLC in the above-referenced matter.

Please acknowledge your receipt of this document by file-stamping the copy of this letter enclosed, and returning it in the enclosed envelope. By copy of this letter, I am serving all current putative parties of record and enclose my certificate of service to that effect.

If you have any questions or need additional information, please do not hesitate to contact me.

With kind regards, I am

Very truly yours,

Handwritten signature of John J. Pringle, Jr.

John J. Pringle, Jr.

JJP/cr

cc: all parties of record  
Enclosures

173/80  
M-1  
ORS-1  
SA-1

BEFORE THE  
SOUTH CAROLINA PUBLIC SERVICE COMMISSION

FILED  
0603-1805

DOCKET NO. 2005-63.C

IN RE: )  
 )  
Petition and Complaint of AT&T )  
Communications of the Southern States, ) **PETITION AND COMPLAINT**  
LLC for Suspension and Cancellation of )  
Transit Traffic Service Tariff No. 2005- )  
138 filed by BellSouth )  
Telecommunications, Inc. )

AT&T Communications of the Southern States, LLC ("AT&T"), pursuant to S.C. Code §58-9-1080 and Rule 103-835 of the S.C. Public Service Commission Regulations, files this Complaint against BellSouth Telecommunications, Inc. ("BellSouth") seeking, *inter alia*, an immediate suspension and/or cancellation of BellSouth's Tariff establishing a new rate for the provision of Transit Traffic Service, Section A.16.1.3(a) and (b) of BellSouth's General Subscriber Services Tariff. In support of this Petition AT&T states:

1. The name and address of the Petitioner is:

AT&T Communications of the Southern States, LLC  
1230 Peachtree Street  
4<sup>th</sup> Floor  
Atlanta, Georgia 30309

2. All pleadings, documents, correspondence, notices, and orders filed, served or

issued in this matter should be served on the following on behalf of Petitioner:

John J. Pringle, Jr.  
Ellis, Lawhorne & Sims, P.A.  
PO Box 2285  
Columbia, SC 29202  
Phone: (803) 343-1270

Gene V. Coker  
Suite 4W32  
1230 Peachtree Street NE  
Atlanta, Georgia 30309  
Phone (404) 810-8700

3. BellSouth Telecommunications, Inc. is an incumbent local exchange company certificated by the Commission to provide local exchange services in South Carolina.

BellSouth's address for receiving communications from the Commission is:

BellSouth Telecommunications, Inc.  
675 W. Peachtree St., NE  
Atlanta, GA 30375

4. AT&T holds certificates issued by the South Carolina Public Service Commission ("Commission") authorizing AT&T to operate as an Interexchange Carrier (IXC) and a Competitive Local Exchange Carrier (CLEC). AT&T is authorized to provide switched and non-switched local exchange and long distance services in South Carolina. AT&T provides long distance (*i.e.*, interexchange toll) services throughout South Carolina, including to customers who obtain their local service from BellSouth and/or who make calls to BellSouth's local exchange customers. AT&T's substantial interests are significantly affected by the anticompetitive provisions of BellSouth's Transit Traffic Service Tariff, which has an effective date of February 16, 2005.

5. BellSouth is an incumbent local exchange company (ILEC). BellSouth provides, among other things, facilities and services to (CLECs) and interexchange carriers (IXCs) to enable such competitive carriers to provide both local and long distance services. One of the services provided by BellSouth is Transit Traffic Service. In BellSouth's case, transit traffic

occurs when a local call is originated by a CLEC or ILEC other than BellSouth, the call is terminated by another CLEC or ILEC other than BellSouth and BellSouth transports the call between the originating and terminating carriers.

6. Pursuant to Sections 251(a)(1) and 251(c)(2) of the Telecommunications Act of 1996, BellSouth is obligated to provide for direct or indirect interconnection for the transmission and routing of telephone exchange or exchange access service. Transit traffic clearly falls within these obligations. Moreover, the transport of transit traffic must be offered at Total Long Run Incremental Cost (“TELRIC”) rates pursuant to Section 252(d)(1) of the Telecommunications Act of 1996 (the “Act”).

7. On February 2, 2005, BellSouth issued revisions to its Transit Traffic Services Tariff, Section A16.1.3(a) and (b) to dramatically increase the rate that BellSouth charges for transit traffic. According to the tariff, the rate for transit traffic will be \$0.003 per minute of use (MOU) for the remainder of 2005 and then double to \$0.006 per MOU beginning January 1, 2006. The tariff has effective date of February 16, 2005. A copy of the tariff, SC 2005-138, is attached hereto as **Exhibit 1**.

8. As a CLEC, AT&T must use Bellsouth’s transit services to interconnect with other local carriers. Absent an agreement with BellSouth, AT&T anticipates that BellSouth will subject AT&T to the tariffed transit traffic rate under the guise of a “market” rate.

8. Pursuant to the interconnection agreement between BellSouth and AT&T, BellSouth currently charges AT&T approximately \$0.0022 per minute of use for transit traffic. The Commission approved this interconnection agreement pursuant to Section 252 of the Act. BellSouth’s tariffed rate for transit traffic service of \$0.006 represents almost three hundred percent (300%) of the rate that AT&T currently pays. On its face, an increase in the transit

traffic rate of the magnitude found in the transit traffic tariff is not consistent with the TELRIC pricing principles. Without any showing that such a price increase is warranted pursuant to a TELRIC cost study, the tariffed rate is clearly unfair, anticompetitive and constitutes an abuse of market position in violation of Sections 58-9-210, 58-9-250 and 58-9-576 (B)(5) of the South Carolina Code as well as Section 252(d) of the Act.

9. Section 58-9-210 provides:

Every rate made, demanded or received by any telephone utility or by any two or more telephone utilities jointly shall be just and reasonable.

Section 58-9-250 provides:

No telephone utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or corporation or subject any person or corporation to any unreasonable prejudice or disadvantage.

Section 58-9-576 (B)(5) provides:

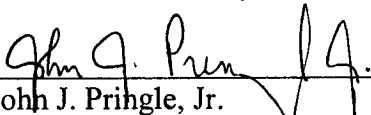
(5) The LECs shall set rates for all other services on a basis that does not unreasonably discriminate between similarly situated customers; provided, however, that all such rates are subject to a complaint process for abuse of market position in accordance with guidelines to be adopted by the commission.

10. BellSouth is effectively a monopoly provider of transit traffic service. BellSouth's use of its effective monopoly status to impose a rate that is almost three times greater than it currently charges without any cost or other justification is unjust, unreasonable, unfair, arbitrary and discriminatory in violation of Sections 58-9-210, 58-9-250 and 58-9-576 B(5) of the South Carolina Code and Sections 251 and 252 of the Telecommunications Act of 1996.

WHEREFORE, Petitioner respectfully request that the Commission:

- A. Immediately suspend BellSouth's Transit Traffic Service Tariff No. SC2005-138;
- B. Schedule and conduct an expedited review/hearing to address disputed issues of fact and law regarding the Tariff;
- C. Enter a final order denying and/or canceling the Tariff; and
- D. Grant such further relief as the Commission may deem appropriate.

Respectfully submitted this 15th day of February, 2005.

  
\_\_\_\_\_  
John J. Pringle, Jr.  
ELLIS, LAWHORNE & SIMS, P.A.  
PO Box 2285  
Columbia, SC 29202  
Telephone: (803) 343-1270

Gene V. Coker  
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Atlanta, Georgia 30309  
Phone (404) 810-8700

Attorneys for AT&T Communications of the  
Southern States, LLC

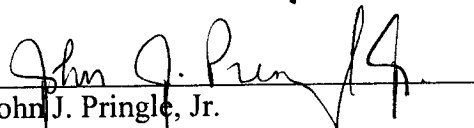
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Petition and Complaint was furnished by U. S. Mail and electronic mail to the following this 15th day of February, 2005:

Patrick J. Turner, Esquire  
**BellSouth Telecommunications, Inc.**  
PO Box 752  
Columbia, SC 29202-0752

Margaret Fox, Esquire  
**McNair Law Firm, PA**  
PO Box 11390  
Columbia SC 29211

Office of Regulatory Staff  
Legal Department  
PO Box 11263  
Columbia, SC 29211

  
John J. Pringle, Jr.

# **EXHIBIT ONE**

February 2, 2005

Mr. Charles L. A. Terreni  
Chief Clerk/Administrator  
Public Service Commission of South Carolina  
Columbia, South Carolina 29211

Dear Mr. Terreni:

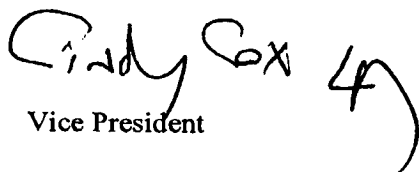
Attached for filing with the Commission are the following tariff pages:

General Subscriber Service Tariff

Section A16 Subject Index	- Thirteenth Revised Page 21
Section A16 TOC	- Seventh Revised Page 1
Section A16 Contents	- First Revised Page 1
Section A16	- First Revised Page 1
Section A16	- Original Page 2

The tariff filing establishes the rates, terms, and conditions for BellSouth's Transit Traffic Service in the General Subscriber Service Tariff. The issue date is February 2, 2005 with an effective date of February 16, 2005.

Yours very truly,

  
Vice President

CC: Joe Rogers, ORS

Attachments

RECEIVED  
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SC PUBLIC SERVICE  
COMMISSION

## SUBJECT INDEX

SUBJECT	T.	SECTION
Telecommunications Service Priority (TSP) System .....		A13.50
Telephone Answering Service Facilities .....		A108
AUTOTAS® Answering System Concentrator .....		A108.4
Telephone Answering Service Listing .....		A6.7.20
Telephone Number Change Charge - See Line Change Charge .....		A4
Temporary Installation .....		A5.3.3
Temporary Service Requiring Construction .....		A5.1.9
Terminal Equipment Utilized by Disabled Persons .....		A30.
Termination Charges .....		A2.3.17
Termination of Service .....		A2.3.17
Tie Line Channels .....		A13.1.3
Time and Materials Charging - See Premises Work Charges .....		A4
Time Share Condominium PBX Service .....		A11.2.6
Titles and Suffixes .....		A6.7.22
Toll Restriction		
Central Office Battery Reversal .....		A14.2
Customized Code Restrictions .....		A13.20
Toll Terminals .....		A13.14
Totalphone Service .....		A113.9
TouchStar Service .....		A13
Touch-Tone Calling Service .....		A13.2
Trade Name .....		A6.2.3
Transfer of Service Between Subscribers .....		A2.3.7
Transit Traffic Service .....		A16
Transmitting Messages .....		A2.2.8
Trunk Lines .....		A11.2
Trunk Side Access Facility .....		A3.28
Two-Tier Payment Plan .....		A22.1
Two-Way Service .....		A3.10.4

® Registered Trademark of Candela Electronics Corporation

All BellSouth marks contained herein and as set forth in the trademarks and servicemarks section of this Tariff are owned by BellSouth Intellectual Property Corporation.

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
SOUTH CAROLINA  
ISSUED: February 2, 2005  
BY: President - South Carolina  
Columbia, South Carolina

GENERAL SUBSCRIBER SERVICE TARIFF

Seventh Revised Page 1  
Cancels Sixth Revised Page 1

EFFECTIVE: February 16, 2005

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- A2. GENERAL REGULATIONS
- A3. BASIC LOCAL EXCHANGE SERVICE
- A4. SERVICE CHARGES
- A5. CHARGES APPLICABLE UNDER SPECIAL CONDITIONS
- A6. DIRECTORY LISTINGS
- A7. COIN TELEPHONE SERVICE
- A8. TELEPHONE ANSWERING SERVICE FACILITIES
- A9. FOREIGN EXCHANGE SERVICE AND FOREIGN CENTRAL OFFICE SERVICE
- A10. KEY AND PUSHBUTTON TELEPHONE SERVICE
- A11. PRIVATE BRANCH EXCHANGE SERVICE
- A12. CENTRAL OFFICE NON-TRANSPORT SERVICE OFFERINGS
- A13. MISCELLANEOUS SERVICE ARRANGEMENTS
- A14. AUXILIARY EQUIPMENT
- A15. CONNECTIONS OF TERMINAL EQUIPMENT AND COMMUNICATIONS SYSTEMS
- A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES
- A17. MOBILE TELEPHONE SERVICE
- A18. LONG DISTANCE MESSAGE TELECOMMUNICATIONS SERVICE
- A19. WIDE AREA TELECOMMUNICATIONS SERVICE (Obsoleted, See Section A119)
- A20. RESERVED FOR FUTURE USE
- A21. RESOLD FOREIGN EXCHANGE SERVICE
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- A25. HORIZON® COMMUNICATIONS SYSTEM
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- A31. MULTI-LOCATION BUSINESS SERVICE (MLBS)
- A32. INTEGRATION PLUS MANAGEMENT SERVICES (IPMS)
- A33. RESERVED FOR FUTURE USE
- A34. ADVANCED INTELLIGENT NETWORK (AIN) SERVICES
- A35. INTERCONNECTION OF MOBILE SERVICES

BELLSOUTH  
TELECOMMUNICATIONS, INC.  
SOUTH CAROLINA  
ISSUED: February 2, 2005  
BY: President - South Carolina  
Columbia, South Carolina

GENERAL SUBSCRIBER SERVICE TARIFF

First Revised Page 1  
Cancels Original Page 1

EFFECTIVE: February 16, 2005

**A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES**

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A16.1.1	Terms and Definitions	1
A16.1.2	Rules and Regulations	1
A16.1.3	Rates and Charges	2

## **A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES**

### **A16.1 Transit Traffic Service**

#### **A16.1.1 Terms and Definitions**

- A. Telecommunications Service Provider - a provider of local and/or access telecommunications service who is legally certified to provide service within the state of South Carolina, or is licensed by the Federal Communications Commission (FCC) to provide Commercial Mobile Radio Service (CMRS). For purposes of this tariff, this definition includes, but is not limited to, CMRS providers, Competitive Local Exchange Carriers (CLECs) and Independent Telephone Companies (ICOs).
- B. Transit Traffic - Local Traffic originating on one Telecommunications Service Provider's network that is delivered by BellSouth to a different Telecommunications Service Provider's network for termination.
- C. Transit Traffic Service - BellSouth's provision of the functions to allow a Telecommunications Service Provider to send and receive Transit Traffic.
- D. Local Traffic - for purposes of this tariff;
  - 1. For wireline-to-wireline traffic, Local Traffic is any intraLATA circuit switched call transiting BellSouth's network that originates from and terminates to carriers other than BellSouth, and for which BellSouth does not collect toll charges or access charges, either directly or indirectly, as the intraLATA toll provider for the end user. This traffic includes ICO-to-ICO traffic, CLEC-to-ICO traffic, ICO-to-CLEC traffic, and CLEC-to-CLEC traffic; or
  - 2. For wireless-to-wireless traffic, wireline-to-wireless traffic, and wireless-to-wireline traffic, Local Traffic is any circuit switched call originating from and terminating to carriers other than BellSouth and transiting BellSouth's network that originates and terminates within the same Major Trading Area (MTA), subject to BellSouth's LATA restrictions. An MTA is the largest FCC-authorized wireless license territory which serves as the definition of local service area for CMRS traffic as defined in 47 C.F.R. 24.202(a). This traffic includes, but is not limited to, CMRS-to-CMRS, CMRS-to-ICO, ICO-to-CMRS, CLEC-to-CMRS and CMRS-to-CLEC calls.

#### **A16.1.2 Rules and Regulations**

- A. This tariff provides the rates, terms and conditions for BellSouth's provision of Transit Traffic Service.
- B. If Transit Traffic is specifically addressed in a separate agreement between BellSouth and the originating Telecommunications Service Provider, then the rates, terms and conditions contained in that separate agreement will apply in lieu of this tariff. If such separate agreement is limited to certain types of traffic or carriers, then the separate agreement will apply to those traffic types or carriers, and this tariff will continue to apply to any traffic types and carriers not covered under the separate agreement.
- C. BellSouth offers Transit Traffic Service only for Transit Traffic that is intended to terminate to a Telecommunications Service Provider whose network is directly interconnected with BellSouth's network. Where BellSouth accepts Transit Traffic from a Telecommunications Service Provider, BellSouth is not liable or responsible for payment to the terminating carrier. Such payment is the sole responsibility of the originating Telecommunications Service Provider. By utilizing BellSouth's Transit Traffic Service for the delivery of Transit Traffic, the originating Telecommunications Service Provider is committing to establishing a traffic exchange agreement or other appropriate agreement to address compensation between the originating Telecommunication Service Provider and the terminating carrier(s).
- D. Notwithstanding anything in C. preceding to the contrary, in the event that the terminating Telecommunications Service Provider imposes on BellSouth any charges or costs for the delivery of Transit Traffic, the originating Telecommunications Service Provider utilizing BellSouth's Transit Traffic Services pursuant to this tariff shall reimburse BellSouth for such charges or costs.
- E. BellSouth, as the tandem switching provider for Transit Traffic, will generate and deliver to the terminating Telecommunications Service Provider industry standard call detail records, where available, for its use in billing the originating Telecommunications Service Provider for the termination of Transit Traffic. Notwithstanding the foregoing, unavailability of such call detail records does not relieve the originating Telecommunications Service Provider of its obligation to pay the charges for Transit Traffic Service as specified in this tariff, nor does it create any liability to the terminating Telecommunications Service Provider on the part of BellSouth.

EFFECTIVE: February 16, 2005

## A16. TELECOMMUNICATIONS SERVICE PROVIDER SERVICES

### A16.1 Transit Traffic Service (Cont'd)

#### A16.1.2 Rules and Regulations (Cont'd)

- F. Telecommunications Service Providers originating Transit Traffic may elect one of two options for measuring Transit Traffic minutes of use for which charges are due.
1. The originating Telecommunications Service Provider shall utilize its originating switch recordings to compensate BellSouth based upon actual Transit Traffic minutes of use ("Actual Measurements"). Telecommunications Service Providers electing to utilize Actual Measurements shall provide a monthly report to BellSouth reflecting actual Transit Traffic minutes of use, along with payment on a per minute of use basis at the applicable rate set forth in Section A16.1.3 below, within sixty days of the date of usage.
  2. In lieu of Actual Measurements, the originating Telecommunications Service Provider shall provide to BellSouth a percent local usage factor (PLU) estimating the percentage of total minutes of use delivered to BellSouth that constitutes Transit Traffic ("Estimated Measurements"). The PLU must be provided to BellSouth in writing within 30 days of the effective date hereof, or within 30 days of delivering Transit Traffic to BellSouth. In the event the originating Telecommunications Service Provider fails to provide a PLU to BellSouth during this timeframe, BellSouth will assign a PLU to be used until a PLU is provided. To the extent a PLU is provided after the default PLU has taken effect, the PLU provided by the Telecommunications Service Provider shall be applied on a prospective basis only. The PLU shall be updated annually, or sooner in the event of a change in Local Traffic volume.
- G. BellSouth reserves the right to contest the accuracy of both the Actual Measurements and Estimated Measurements provided by Telecommunications Service Providers and may conduct audits or internal studies for verification.
- H. In the event a dispute arises regarding Actual Measurements or Estimated Measurements, BellSouth will continue to bill based upon information provided by the Telecommunications Service Provider or utilizing the assigned PLU until the dispute is resolved.
- I. If BellSouth and the Telecommunications Service Provider are unable to successfully negotiate a resolution to the dispute within 30 days of notice of the existence of a dispute, the aggrieved Party shall seek dispute resolution with the appropriate governing regulatory body.
- J. Once the dispute is resolved, the parties shall utilize the resulting Actual Measurements or Estimated Measurements on a going forward basis. The parties shall negotiate a true up of any billing inaccuracies occasioned by application of such Measurement on a retroactive basis.
- K. Charges shall be billed to the originating Telecommunications Service Provider and shall be payable under the terms of A2.4 of the General Subscriber Services Tariff.

#### A16.1.3 Rates and Charges

	Charge	USOC
(a) Transit Traffic Service, per MOU through 12/31/2005	\$0.003	NA
(b) Transit Traffic Service, per MOU on and after 1/1/2006	0.006	NA